

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DAVID E. CALLAHAN,)
)
)
 Plaintiff,)
v.) Case No. CIV-09-897-F
)
)
GEO GROUP, INC., *et al.*,)
)
)
 Defendants.)

REPORT AND RECOMMENDATION

Plaintiff, appearing *pro se*, has submitted to this Court for filing a civil rights complaint pursuant to 42 U.S.C. §1983 alleging violations of his constitutional rights.

At the time of filing, Plaintiff neither paid the required filing fee nor submitted a motion for leave to proceed *in forma pauperis*, contrary to Local Civil Rules 3.2 and 3.3. Consequently, an Order was entered on August 18, 2009, giving Plaintiff until September 8, 2009, to cure the deficiencies.

Plaintiff has been granted eight extensions of time. Plaintiff's eighth motion requesting an extension of time [Doc. #28] stated "Please allow this final request for an extension. If all is not completed (filing fee, etc.) the Plaintiff will drop this lawsuit . . ." The Court's Order entered on February 2, 2010 [Doc. #29] granted Plaintiff's 8th extension of time to file an *in forma pauperis* motion and ordered the Plaintiff to file an application to proceed *in forma pauperis* or pay the required fee or voluntarily dismiss the action in accordance with Fed.R.Civ.P. 41(a). Plaintiff was advised that failure to comply by

February 18, 2010, would result in a recommendation for dismissal of this action without prejudice to refiling.

On February 22, 2010, the Court received Plaintiff's ninth motion [Doc. #30] for an extension of time. Plaintiff does not show good cause for yet another extension of time. The Court has already granted him eight extensions totaling six additional months to either pay the filing fee or file a motion to proceed *in forma pauperis*. Plaintiff's conduct demonstrates his unwillingness to comply with even the most basic threshold requirements of proceeding in this action. Consequently, it is recommended that Plaintiff's ninth motion be denied and the action be dismissed without prejudice to the filing of a new action. See LCvR3.2 and 3.3.

Also pending before this Court is Plaintiff's Emergency Motion [Doc. #21] requesting (1) permission to meet with Judge; (2) that all motions in the case be reconsidered; (3) 30 days to forward his brief; and (4) to amend this case by adding additional defendants. It is recommended that this motion also be denied.

RECOMMENDATION

It is recommended that Plaintiff's ninth motion for an extension of time [Doc. #30] be denied and that Plaintiff's action be dismissed without prejudice to the filing of a new action. Plaintiff's Emergency Motion [Doc. #21] should also be denied.

NOTICE OF RIGHT TO OBJECT

Plaintiff has a right to object to this Report and Recommendation. *See* 28 U.S.C. § 636. Within 14 days after being served with a copy of this Report and Recommendation, Plaintiff may serve and file specific written objections with the Clerk of the District Court. Fed. R. Civ. P. 72(b)(2). Failure to make timely objection to this Report and Recommendation waives Plaintiff's right to appellate review of the factual and legal issues addressed herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

STATUS OF REFERRAL

This Report and Recommendation terminates the referral.

ENTERED this 2nd day of March, 2010.



VALERIE K. COUCH
UNITED STATES MAGISTRATE JUDGE